

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL D. HORTON,

Defendant.

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Case No. 3:03cr157

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING INITIAL (DOC. #108) AND
SUPPLEMENTAL (DOC. #110) REPORTS AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE; DEFENDANT'S
OBJECTIONS TO SAID JUDICIAL FILINGS (DOC. #111)
OVERRULED; DEFENDANT'S MOTION, UNDER 28 U.S.C. § 2255,
TO VACATE, SET ASIDE OR CORRECT SENTENCE (DOC. #107)
OVERRULED; JUDGMENT TO ENTER IN FAVOR OF GOVERNMENT
AND AGAINST DEFENDANT HEREIN; CERTIFICATE OF
APPEALABILITY AND ANTICIPATED MOTION FOR LEAVE TO
APPEAL *IN FORMA PAUPERIS* DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority contained in the Initial (Doc. #108) and Supplemental (Doc. #110) Reports and Recommendations of the United States Magistrate Judge, as well as upon a thorough *de novo* review of this Court's file (including the plea colloquy, between the Court and the Defendant, at the time of the taking of the Defendant's plea of guilty and of the sentencing hearing), as well as upon a thorough review of the applicable law, this Court

adopts said Reports and Recommendations in their entirety. The Defendant's Objections to said judicial filings (Doc. #111, construed by this Court as Objections directed at both Reports and Recommendations), are overruled. The Defendant's Motion, under 28 U.S.C. § 2255, to vacate, set aside or correct sentence by a person in federal custody (Doc. #107), as amended on May 5, 2008 (Doc. #109), is overruled. Judgment will be ordered entered in favor of the Plaintiff-Government and against the Defendant herein, denying the aforesaid motion in its entirety.

Given that reasonable jurists would not disagree with the above referenced conclusion, Defendant is denied any requested Certificate of Appealability and, moreover, given that any appeal from this Court's decision would be objectively frivolous, this Court will deny any subsequent request to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

July 16, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Vipal Patel, Esq.
Michael D. Horton, *Pro Se*